REMARKS

Claims 1, 2, 4-8, 10-12, 14-19, and 21-32 remain pending in the instant application. All claims presently stand rejected. Claims 1, 2, 4, 6, 7, 10, 14-16, 18, 21, and 24-30 are amended herein. Entry of this amendment and reconsideration of the pending claims are respectfully requested.

Double Patenting

The Examiner rejected claims 1, 2, 4-8, 10-12, 14-19, and 21-32 under the judicially created doctrine of obviousness-type double patenting over claims 1-3, 5-20, and 23-49 of U.S. Patent No.: 7,020,893. The Applicants respectfully request that the enclosed timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) be entered to overcome the instant nonstatutory double patenting rejections as suggested in the Office Action mailed April 15, 2003.

The Applicants wish to note that the filing of the enclosed Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) is not an admission to the propriety of the rejection. M.P.E.P. § 804.02 (8th Ed. February 2003); Quad Environmental Technologies Corp. v. Union Sanitary District, 20 USPQ2d 1392 (Fed. Cir. 1991). As stated by the Federal Circuit in the Quad Environmental Technologies decision, the "filing of a terminal disclaimer simply servers the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

Claim Rejections – 35 U.S.C. § 101

Claims 24-27 stand rejected under 35 U.S.C. §101 as directed to non-statutory subject matter. The Examiner stated that "[t]he applicant has defined a machine readable storage media to include non-tangible media such as carrier wave signals." Accordingly, Applicants have amended the preambles of claims 24-27 to recite, "A tangible machine-readable storage medium..." Accordingly, the claims are now limited to "tangible" storage mediums.

Claim Rejections – 35 U.S.C. § 103

Claims 1, 2, 4-8, 10-12, 14-19, and 21-32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Herz et al. (US 6,088,722) in view of Srinivasan et al. (US 6,357,042).

"To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art." M.P.E.P. § 2143.03.

Amended independent claim 1 now recites, in pertinent part

> broadcasting meta-data to a plurality of client systems, the meta-data including **titles of specific pieces of broadcast programming content** being **considered for future broadcast, but which have not yet been scheduled in a future broadcast**, the meta-data further including sets of descriptors and/or attributes describing the specific pieces of broadcast programming content;

Applicants respectfully and strenuously submit that the combination of Herz and Srinivasan fails to teach or suggest broadcasting meta-data that includes titles of specific pieces of broadcast programming content being considered for future broadcast, but which have not yet been scheduled in a future broadcast.

The Examiner cites Herz as teaching "a system for sending a questionnaire to customers in order to obtain a customer profile which is then used to schedule future broadcasts of programs (col. 13, lines 25-28). The questionnaire is considered meta-data because it describes the types of programs that will potentially be broadcast." *Office Action* mailed 04/20/06, Response to Arguments section.

However, Herz discloses that "initial customer profile is determined from an initial customer questionnaire or ballot. When completing the initial questionnaire, the customer may choose between two voting schemes, one (Scheme A) by **characteristics**, and the other (Scheme B) by categories." *Herz*, col. 12, lines 26-31. Herz describes the characteristics as including the following: film genres; directors; actors/actresses; attributes such as degree of sex, violence, and profanity; MPAA rating; country of origin; scientific content, socio-political content; cultural content; imagination evoking content; psychological content; and maturity level appeal. See *Herz*, col. 11, line 60 to

col. 12, line 6. **Accordingly, Herz never teaches or suggest broadcasting meta-data that describes specific pieces of content and includes the title of the specific pieces of content.** Herz does not disclose the questionnaire as mentioning specific programming. Rather, it merely attempts to collect preferences for different types of characteristics. The questionnaire does not mention specific program titles.

Furthermore, Herz discloses

> Preferably, the content profiles are downloaded all at once for a given time period along with the corresponding scheduling data as part of the electronic program guide data and sent via a separate data channel.

Herz, col. 25, lines 55-58. Accordingly, Herz discloses transmitting content profiles along with the electronic program guide data. In other words, **Herz only discloses transmitting content profiles of programs that have already been scheduled for broadcast.** Nowhere does Herz disclose transmitting content profiles of programs (including specific titles) that have not yet been scheduled for broadcast.

Finally, the Examiner acknowledges that "Herz does not explicitly teach broadcasting meta-data to the client in order to rate content." *Office Action* mailed 04/20/06, page 4. Therefore, the Examiner cites Srinivasan as teaching this additional missing element. However, Srinivason does not teach or suggest meta-data including "titles of specific pieces of broadcast content being considered for future broadcast, but which have not yet been scheduled in a future broadcast ..." Rather, Srinivason discloses

> The overall purpose of the authoring station is addition of innovative material to the video data stream, such as **text overlay, graphic icons and logos for advertisement**, some of which may be associated with identity and address data to allow a viewer at a computerized end station to access advertisements and other data which may be associated with individual entities in the video presentation. Advertisements may, for example, be associated with a tracked object. Also the text annotations could either be set to track along with an object, or appear in a fixed position anywhere on the screen, as they are typical in broadcasts today.

Srinivasan, col. 6, lines 8-18 (emphasis added). Srinivasan discloses a technique of inserting meta-data into a video stream. Srinivasan discloses this meta-data as including text overlay, graphic icons, and logos for advertisement related to the **contemporaneously** transmitted program—not a future, yet to be scheduled, broadcast.

Furthermore, the meta-data in Srinivasan includes text overly, graphic icons, and logos to support "advertisements"—not describing broadcasting programming content. The meta-data disclosed in Srinivasan cannot fairly be characterized as "including sets of descriptors and/or attributes describing respective pieces of broadcast programming content..."

Consequently, for the reasons discussed above, the combination of Herz and Srinivasan fails to teach or suggest all elements of claim 1, as required under M.P.E.P. § 2143.03. Independent claims 7, 10, 14, 18, 21, 24, 26, and 28 include similar nonobvious elements as independent claim 1. Accordingly, Applicants request that the instant §103(a) rejections of claims 1, 7, 10, 14, 18, 21, 24, 26, and 28 be withdrawn.

Dependent Claims

Dependent claim 5 recites, in pertinent part,

> broadcasting a broadcast schedule of the meta-data prior to broadcasting the meta-data to the plurality of client systems.

Applicants respectfully submit that the cited prior art also fails to disclose broadcasting a broadcast schedule of the meta-data **prior** to broadcasting the meta-data itself. Rather, Herz merely discloses that the content profiles are downloaded all at once as part of the electronic program guide. Nowhere does Herz teach or suggest first broadcasting a schedule for the meta-data and then broadcasting the meta-data for broadcast content which has not yet even been scheduled for broadcast.

The remaining dependent claims are nonobvious over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own. Accordingly, Applicants respectfully request that the instant § 103 rejections of the dependent claims be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants believe the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice

of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (206) 292-8600 if the Examiner believes that an interview might be useful for any reason.

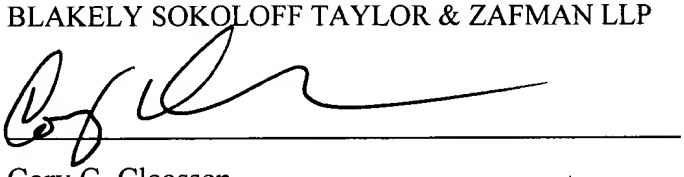
CHARGE DEPOSIT ACCOUNT

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). Any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666. Please credit any overpayment to the same deposit account.

Respectfully submitted,

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

Date: July 7, 2006



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